

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1, 2, 5-8, 10-13, 16-19, and 21 are pending in the present application. Claims 1, 7, 8, 12, 18 and 19 have been amended, and claims 9 and 20 have been cancelled by the present Amendment.

In the outstanding Office Action, the Declaration was objected to; and claims 1, 2, 5-13 and 16-23 were rejected under 35 U.S.C. § 102(b) as anticipated by Replay Gain.

Regarding the objection to the Declaration, enclosed is an Application Data Sheet that properly shows the residence information of the inventor.

Claims 1, 2, 5-13 and 16-23 stand rejected under 35 U.S.C. § 102(b) as anticipated by Replay Gain. This rejection is respectfully traversed.

Independent claim 7 has been amended to include the subject matter recited in dependent claim 9. In particular, independent claim 7 is directed to a method for controlling an audio recording level, comprising the steps of a) decoding entry audio data to be recorded in song units, and detecting an audio level average of the decoded entry audio data, and b) variably controlling a level of subsequent decoded audio data on the basis of the detected audio level average, encoding the variably controlled audio data level, and recording the encoded audio data to a recording medium. Further, the step (b) includes the steps of calculating an offset value between the detected audio level average and an audio level average of a previously recorded song, adjusting an audio level of a subsequent song unit on the basis of the offset value, and encoding and recording the subsequent song unit having the adjusted audio level. Independent claims 1, 12 and 18 include similar features in a varying scope.

These features are supported at least by the non-limiting example shown in Figure 3 and the corresponding description in the specification. For example, Figure 3 illustrates a method for controlling an audio recording level, comprising the steps of a) decoding entry audio data to be recorded in song units, and detecting an audio level average of the decoded entry audio data (S10 and S11), and b) variably controlling a level of subsequent decoded audio data (S22) on the basis

of the detected audio level average, encoding the variably controlled audio data level, and recording the encoded audio data to a recording medium (S20 and S21). Further, the step (b) includes the steps of calculating an offset value between the detected audio level average and an audio level average of a previously recorded song, adjusting an audio level of a subsequent song unit on the basis of the offset value, and encoding and recording the subsequent song unit having the adjusted audio level (S21 and page 9, lines 7-12).

Regarding the subject matter recited in dependent claim 9, the Office Action indicates that Replay Gain teaches this feature and cites the section 4 in Replay Gain regarding the "Calibration with reference level". However, this section merely indicates that the replay level is selected as 83dB and that this average replay level is used for calibration purposes. Further, this average replay level is a predetermined level that is used for all recordings. This reference level is not selected based on a previously recorded song and does not correspond to an offset value between the detected audio level average and an audio level average of a previously recorded song. That is, this calibration level is a fixed level that does not change. This differs from the present invention, which calculates an offset value between the detected audio level average and an audio level average of a previously recorded song and then adjusts an audio level of a subsequent song unit on the basis of the offset value. The subsequent song is then encoded and recorded having the adjusted audio level.

Accordingly, it is respectfully submitted independent claims 1, 7, 12 and 18 and each of the claims depending therefrom are allowable.

Further, the specification has been amended to correct a minor informality. No new matter has been added.

Conclusion

In view of the above remarks, it is believed that claims are allowable.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact David A. Bilodeau, Reg. No. 43,325, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

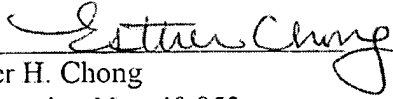
Application No. 10/758,073
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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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